



Public Service Commission
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COMMISSION CLERK

DATE: JUNE 6, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) OFFICE OF THE GENERAL COUNSEL (TEITZMAN) *AT TIL*

RE: DOCKET NO. 020288-TP - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE NO. 6034 AND ALEC CERTIFICATE NO. 5588 ISSUED TO VISION PREPAID SERVICES, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 06/18/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020288.RCM

CASE BACKGROUND

- **04/18/98** - This company obtained Florida Public Service Commission Alternative Local Exchange Company (ALEC) Certificate No. 5588 and on April 17, 1999, the company obtained Interexchange Company (IXC) Certificate No. 6034.
- **01/30/01** - The Commission received the company's Regulatory Assessment Fee (RAF) returns for the period ended December 31, 2000. The company reported IXC revenues in the amount of \$32,918 and ALEC revenues in the amount of \$673,099.
- **08/08/01** - The Commission received a letter from the company requesting cancellation of its ALEC certificate because it was no longer doing business in Florida.

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- **08/09/01** - Staff wrote the company a letter and asked if the company wanted only its ALEC certificate cancelled or both the ALEC and IXC certificates. In addition, staff advised that the company needed to either pay the 2001 RAFs or provide a date certain they would be paid. Staff requested a response by August 24, 2001.
- **10/17/01 and 10/18/01** - Mr. Jim Stevens called and stated that he had just been handed staff's August 9, 2001 letter and asked if a representative with Vision Prepaid Services, Inc. had responded. Staff advised Mr. Stevens that there had been no response. Mr. Stevens then advised that the company wanted both its IXC and ALEC certificates cancelled.
- **10/22/01** - Staff faxed Mr. Stevens a note and a copy of Rules 25-24.474 and 25-24.820, Florida Administrative Code, dealing with requests for cancellation.
- **12/12/01** - The Division of the Commission Clerk & Administrative Services mailed the 2001 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2002.
- **02/21/02** - The Office of the General Counsel mailed a delinquent notice for nonpayment of the 2001 RAF. The US Postal Service delivered the IXC delinquent notice on February 26, 2002, but returned the ALEC delinquent notice.
- **04/12/02** - Mr. Stevens called and left a voice mail message. Staff returned the call the same date by leaving a voice mail message.
- **04/19/02** - Mr. Stevens called and stated that he would like a voluntary cancellation but had misplaced the information previously faxed to him. He asked that staff refax the information.
- **04/23/02** - Staff faxed the company a copy of the August 9, 2001 letter, Rules 25-24.474 and 25-24.820, Florida Administrative Code, and the 2001 RAF return forms for both certificates. Staff requested a response by May 1, 2002.
- **05/02/02** - Staff called Mr. Stevens concerning payment of the 2001 RAF. Mr. Stevens advised he would check with the

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company's accountants and would let staff know something on Monday, May 6, 2002.

- **05/22/02** - As of this date, the company has not paid the past due amount or contacted staff.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Vision Prepaid Services, Inc. a voluntary cancellation of IXC Certificate No. 6034 and ALEC Certificate No. 5588?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificates. The Commission should cancel the company's IXC Certificate No. 6034 and ALEC Certificate No. 5588 on its own motion, effective August 8, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificates are cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing IXC and ALEC services in Florida. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30, or the next business day, of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Rule 25-24.474(2)(a), (b), (c), and (d), Florida Administrative Code, states:

- (2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request.
 - (a) Statement of intent and date to pay Regulatory Assessment Fee.
 - (b) Statement of why the certificate is proposed to be cancelled.
 - (c) A statement on treatment of customer deposits and final bills.
 - (d) Proof of individual customer notice regarding discontinuance of service.

Rule 25-24.820(2)(a), (b), (c), and (d), Florida Administrative Code, states:

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- (2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request. Cancellation of a certificate shall be ordered subject to the holder providing the required information.
 - (a) A statement of intent and date certain to pay regulatory assessment fee.
 - (b) A statement of why the certificate is proposed to be cancelled.
 - (c) A statement as to how customer deposits and final bills will be handled.
 - (d) Proof of individual customer notice regarding discontinuance of service.

On August 8, 2001, the Commission received a letter from the company, which requested cancellation of its ALEC certificate. After researching the company, staff discovered that the company also had an IXC certificate. Staff wrote the company on August 9, 2001, and asked for clarification concerning which certificate(s) the company wanted cancelled and explained that the company either needed to pay the 2001 RAFs or provide a date certain the RAFs would be paid. Staff had several conversations and voice mail messages with Mr. Jim Stevens. Although Mr. Stevens stated that the company wanted its certificates voluntarily cancelled, as of May 22, 2002, the Commission has not received payment for the 2001 RAF for its IXC and ALEC certificates.

Accordingly, the Commission should not grant the company a voluntary cancellation of its certificates. The Commission should cancel the company's IXC Certificate No. 6034 and ALEC Certificate No. 5588 on its own motion, effective August 8, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificates are cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing IXC and ALEC services in Florida.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order. (Teitzman)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon issuance of a Consummating Order.